

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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JOHNNY TAYLOR,

Petitioner,

Case No. 1:17-cv-855

v.

Honorable Robert J. Jonker

S.L. BURT,

Respondent.

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**ORDER DENYING IN FORMA PAUPERIS STATUS**

Petitioner has filed a notice of appeal from a decision by the district court denying habeas relief. Federal Rule of Appellate Procedure 3(e) provides that the appellant must pay all required fees at the time a notice of appeal is filed with the district court. Under Sixth Circuit Internal Operating Procedure 3, the docketing fee for a case on appeal is \$500.00. In addition, under 28 U.S.C. § 1917, a \$5.00 filing fee must be paid to the district court. Petitioner has failed to pay the fees.

The Sixth Circuit has determined that “a prisoner who is unable to pay the required filing fees may seek leave to file an appeal in a Section 2254 or Section 2255 action pursuant to Rule 24(a) of the Federal Rules of Appellate Procedure.” *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997). But, under Rule 24(a)(3) and 28 U.S.C. § 1915(a)(3), where the Court has certified that an appeal would not be taken in good faith, Petitioner is not authorized to proceed on appeal *in forma pauperis*.

The Court has already certified that an appeal would not be taken in good faith. (ECF No. 40.) Therefore, if Petitioner wishes to proceed with his appeal, he must pay the \$505.00

appellate fee to the Clerk of this Court. *See* 28 U.S.C. §§ 1913, 1917; 6 Cir. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Dec. 1, 2013). Alternatively, Petitioner may file a motion for leave to proceed *in forma pauperis* in the Court of Appeals pursuant to the requirements set forth in Fed. R. App. P. 24(a)(5). The Sixth Circuit Court of Appeals has already notified Petitioner that the deadline to either pay the fee or file for *in forma pauperis* status in the Court of Appeals is May 10, 2021. (ECF No. 43.) Petitioner is also notified that if he fails to pay the filing fee or to file the required documents, the Court of Appeals may dismiss Petitioner's appeal for want of prosecution.

Accordingly,

**IT IS ORDERED** that Petitioner is **DENIED** leave to proceed on appeal *in forma pauperis*.

Dated: May 5, 2021

/s/ Ray Kent  
United States Magistrate Judge

**SEND REMITTANCES TO:**

Clerk, U.S. District Court  
399 Federal Bldg.  
110 Michigan St., N.W.  
Grand Rapids, MI 49503

**All checks or other forms of payment shall be payable to "Clerk, U.S. District Court" and must indicate the case number in which the payment is made.**